

AMENDED IN ASSEMBLY AUGUST 22, 2011

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JULY 5, 2011

AMENDED IN ASSEMBLY JUNE 13, 2011

AMENDED IN SENATE APRIL 28, 2011

AMENDED IN SENATE MARCH 23, 2011

## **SENATE BILL**

**No. 757**

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**Introduced by Senator Lieu**  
*(Coauthor: Assembly Member Fuentes)*

February 18, 2011

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An act to amend Section 1374.58 of, and to add Section 1367.30 to, the Health and Safety Code, and to amend Sections 10112.5 and 10121.7 of the Insurance Code, relating to discrimination.

### LEGISLATIVE COUNSEL'S DIGEST

SB 757, as amended, Lieu. Discrimination.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans and makes a willful violation of its provisions a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires a health care service plan and a health insurance policy to provide group coverage to the registered domestic partner of an employee, subscriber, insured, or policyholder that is equal to the coverage it provides to the spouse of those persons.

This bill would specify that a plan or policy may not discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex.

Existing law provides that a policy or certificate of health insurance marketed, issued, or delivered to a California resident, regardless of the situs of the contract or master group policyholder, is generally subject to California insurance law, except for a policy issued outside of California to an employer whose principal place of business and majority of employees are located outside of California.

This bill would provide that every group health care service plan contract and every group health insurance policy that is marketed, issued, or delivered to a California resident is subject to the requirements to provide equal coverage to domestic partners as is provided to spouses, notwithstanding any other provision of law. The bill would also provide that notwithstanding the exception for a policy issued outside of California to an employer whose principal place of business and majority of employees are located outside of California, no policy or certificate of health insurance marketed, issued, or delivered to a resident of this state shall discriminate in coverage between spouses or domestic partners of a different sex and spouses or domestic partners of the same sex.

Because a willful violation of these provisions by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1367.30 is added to the Health and Safety
- 2 Code, to read:
- 3 1367.30. Notwithstanding any other provision of law, every
- 4 group health care service plan contract marketed, issued, or
- 5 delivered to a resident of this state, regardless of the situs of the
- 6 contract or the subscriber, shall be subject to Section 1374.58.

1 SEC. 2. Section 1374.58 of the Health and Safety Code is  
2 amended to read:

3 1374.58. (a) A group health care service plan that provides  
4 hospital, medical, or surgical expense benefits shall provide equal  
5 coverage to employers or guaranteed associations, as defined in  
6 Section 1357, for the registered domestic partner of an employee  
7 or subscriber to the same extent, and subject to the same terms and  
8 conditions, as provided to a spouse of the employee or subscriber,  
9 and shall inform employers and guaranteed associations of this  
10 coverage. A plan ~~may~~ *shall* not offer or provide coverage for a  
11 registered domestic partner that is not equal to the coverage  
12 provided to the spouse of an employee or subscriber, and ~~may~~  
13 *shall* not discriminate in coverage between spouses or domestic  
14 partners of a different sex and spouses or domestic partners of the  
15 same sex. The prohibitions and requirements imposed by this  
16 section are in addition to any other prohibitions and requirements  
17 imposed by law.

18 (b) If an employer or guaranteed association has purchased  
19 coverage for spouses and registered domestic partners pursuant to  
20 subdivision (a), a health care service plan that provides hospital,  
21 medical, or surgical expense benefits for employees or subscribers  
22 and their spouses shall enroll, upon application by the employer  
23 or group administrator, a registered domestic partner of an  
24 employee or subscriber in accordance with the terms and conditions  
25 of the group contract that apply generally to all spouses under the  
26 plan, including coordination of benefits.

27 (c) For purposes of this section, the term “domestic partner”  
28 shall have the same meaning as that term is used in Section 297  
29 of the Family Code.

30 (d) (1) A health care service plan may require that the employee  
31 or subscriber verify the status of the domestic partnership by  
32 providing to the plan a copy of a valid Declaration of Domestic  
33 Partnership filed with the Secretary of State pursuant to Section  
34 298 of the Family Code or an equivalent document issued by a  
35 local agency of this state, another state, or a local agency of another  
36 state under which the partnership was created. The plan may also  
37 require that the employee or subscriber notify the plan upon the  
38 termination of the domestic partnership.

39 (2) Notwithstanding paragraph (1), a health care service plan  
40 may require the information described in that paragraph only if it

1 also requests from the employee or subscriber whose spouse is  
2 provided coverage, verification of marital status and notification  
3 of dissolution of the marriage.

4 (e) Nothing in this section shall be construed to expand the  
5 requirements of Section 4980B of Title 26 of the United States  
6 Code, Section 1161, and following, of Title 29 of the United States  
7 Code, or Section 300bb-1, and following, of Title 42 of the United  
8 States Code, as added by the Consolidated Omnibus Budget  
9 Reconciliation Act of 1985 (Public Law 99-272), and as those  
10 provisions may be later amended.

11 (f) A plan subject to this section that is issued, amended,  
12 delivered, or renewed in this state on or after January 2, 2005, shall  
13 be deemed to provide coverage for registered domestic partners  
14 that is equal to the coverage provided to a spouse of an employee  
15 or subscriber.

16 SEC. 3. Section 10112.5 of the Insurance Code is amended to  
17 read:

18 10112.5. (a) (1) Notwithstanding any other provision of law,  
19 every policy or certificate of health insurance marketed, issued,  
20 or delivered to a resident of this state, regardless of the situs of the  
21 contract or master group policyholder, shall be subject to all  
22 provisions of this code.

23 (2) (A) Paragraph (1) shall not apply to a policy or certificate  
24 of health insurance that is issued outside of California to an  
25 employer whose principal place of business and majority of  
26 employees are located outside of California.

27 (B) Notwithstanding subparagraph (A), no policy or certificate  
28 of health insurance marketed, issued, or delivered to a resident of  
29 this state shall discriminate in coverage between spouses or  
30 domestic partners of a different sex and spouses or domestic  
31 partners of the same sex.

32 (3) Nothing in subparagraph (A) of paragraph (2) shall be  
33 construed to limit the applicability of any other provision of this  
34 code to any policy or certificate of health insurance that is issued  
35 outside of California to an employer whose principal place of  
36 business and majority of employees are located outside of  
37 California.

38 (b) Notwithstanding any other provision of law, every policy  
39 or certificate of group health insurance marketed, issued, or  
40 delivered to a resident of this state, regardless of the situs of the

1 contract or master group policyholder, shall be subject to Section  
2 10121.7.

3 SEC. 4. Section 10121.7 of the Insurance Code is amended to  
4 read:

5 10121.7. (a) A policy of group health insurance that provides  
6 hospital, medical, or surgical expense benefits shall provide equal  
7 coverage to employers or guaranteed associations, as defined in  
8 Section 10700, for the registered domestic partner of an employee,  
9 insured, or policyholder to the same extent, and subject to the same  
10 terms and conditions, as provided to a spouse of the employee,  
11 insured, or policyholder, and shall inform employers and  
12 guaranteed associations of this coverage. A policy ~~may~~ *shall* not  
13 offer or provide coverage for a registered domestic partner that is  
14 not equal to the coverage provided to the spouse of an employee,  
15 insured, or policyholder, and ~~may~~ *shall* not discriminate in  
16 coverage between spouses or domestic partners of a different sex  
17 and spouses or domestic partners of the same sex. The prohibitions  
18 and requirements imposed by this section are in addition to any  
19 other prohibitions and requirements imposed by law.

20 (b) If an employer or guaranteed association has purchased  
21 coverage for spouses and registered domestic partners pursuant to  
22 subdivision (a), a health insurer that provides hospital, medical,  
23 or surgical expense benefits for employees, insureds, or  
24 policyholders and their spouses shall enroll, upon application by  
25 the employer or group administrator, a registered domestic partner  
26 of the employee, insured, or policyholder in accordance with the  
27 terms and conditions of the group contract that apply generally to  
28 all spouses under the policy, including coordination of benefits.

29 (c) For purposes of this section, the term “domestic partner”  
30 shall have the same meaning as that term is used in Section 297  
31 of the Family Code.

32 (d) (1) A policy of group health insurance may require that the  
33 employee, insured, or policyholder verify the status of the domestic  
34 partnership by providing to the insurer a copy of a valid Declaration  
35 of Domestic Partnership filed with the Secretary of State pursuant  
36 to Section 298 of the Family Code or an equivalent document  
37 issued by a local agency of this state, another state, or a local  
38 agency of another state under which the partnership was created.  
39 The policy may also require that the employee, insured, or

1 policyholder notify the insurer upon the termination of the domestic  
2 partnership.

3 (2) Notwithstanding paragraph (1), a policy may require the  
4 information described in that paragraph only if it also requests  
5 from the employee, insured, or policyholder whose spouse is  
6 provided coverage, verification of marital status and notification  
7 of dissolution of the marriage.

8 (e) Nothing in this section shall be construed to expand the  
9 requirements of Section 4980B of Title 26 of the United States  
10 Code, Section 1161, and following, of Title 29 of the United States  
11 Code, or Section 300bb-1, and following, of Title 42 of the United  
12 States Code, as added by the Consolidated Omnibus Budget  
13 Reconciliation Act of 1985 (Public Law 99-272), and as those  
14 provisions may be later amended.

15 (f) A group health insurance policy subject to this section that  
16 is issued, amended, delivered, or renewed in this state on or after  
17 January 2, 2005, shall be deemed to provide coverage for registered  
18 domestic partners that is equal to the coverage provided to a spouse  
19 of an employee, insured, or policyholder.

20 SEC. 5. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.